

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF
GEORGIA ATLANTA DIVISION**

APOLLOMD BUSINESS SERVICES, LLC,
a Georgia Limited Liability Company,

Plaintiff,

v.

BLOODWORTH WHOLESALE DRUGS,
INC., ET AL.

Defendants.

CIVIL ACTION FILE NO.

1:18-cv-01662-SCJ

**MEMORANDUM IN SUPPORT OF DEFENDANT BLOODWORTH
WHOLESALE DRUGS, INC.’S UNOPPOSED MOTION TO STAY THE
DATE BY WHICH TO RESPOND TO PLAINTIFF’S COMPLAINT AND
FOR AN EXTENSION OF TIME PENDING FINAL DETERMINATION OF
REMOVAL**

Bloodworth Wholesale Drugs, Inc., (“Bloodworth”) asks this Court to stay the date by which to respond to Plaintiff’s Complaint and for an extension of time pending a final determination of removal. Plaintiff does not oppose this Motion.

This lawsuit is one of more than 600 federal actions pending nationwide in which government entities and other plaintiffs assert claims

against pharmaceutical manufacturers, distributors, and/or physicians relating to the sale, marketing, and distribution of FDA-approved prescription opioid medications. More than 500 of those actions have been transferred to the Multidistrict Litigation (“MDL 2804”) in the Northern District of Ohio that includes many other cases like this one.

On April 18, 2018, Endo Pharmaceuticals, Inc., filed a Notice of Removal on the basis of the existence of complete diversity between Plaintiff and all properly joined Defendants, and satisfaction of all other requirements for removal. Plaintiff has until May 17, 2018 to move to remand the case to state court.

Because the issue of the appropriate forum for this case has not been finally resolved, Bloodworth requests that this Court stay the date that Bloodworth is required to respond to the Complaint until sixty days after removal is finally determined. Plaintiff does not oppose this Motion.

It is in the best interest of the parties and in the interest of judicial efficiency to avoid the possibility of litigating the same issues in two different courts. If Bloodworth is required to respond to the Complaint before a final determination of removal is made, it risks having to respond in this Court and again in state court. Similarly, Plaintiff could be required

to respond to pleadings first in federal court and again in state court. Litigating these issues in both forums would be costly to all parties, as well as an inefficient use of judicial resources. The Court's inherent power includes the "broad power to stay proceedings" based on its authority to manage its docket efficiently. *See Intendis, Inc. v. River's Edge Pharm., LLC*, No. 1:11-CV-01634- RLV, 2011 WL 13096139, at *1 (N.D. Ga. Oct. 24, 2011) (citing *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936)). For these reasons, Bloodworth requests an Order staying the date that it is required to respond to the Complaint until sixty days after the issue of removal is finally determined. Final determination of removal shall occur on either May 17, 2018, if Plaintiff does not file a Motion to Remand, or upon the issuance of an order resolving Plaintiff's Motion to Remand. A Proposed Order is attached.

Dated: April 23, 2018

Respectfully submitted,

**OWEN, GLEATON, EGAN,
JONES & SWEENEY, LLP**

/s/ DAVID V. HAYES
FREDERICK N. GLEATON
Georgia Bar No. 297250
DAVID V. HAYES
Georgia Bar No. 240156

*Attorneys for Bloodworth Wholesale
Drugs, Inc.*

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CERTIFICATE OF COMPLIANCE

Undersigned counsel certifies the foregoing document has been prepared with one of the font and point selections (Times New Roman, 14 point) approved by the Court in Local Rules 5.1(c) and 7.1(d).

DATED: April 23, 2018

**OWEN, GLEATON, EGAN,
JONES & SWEENEY, LLP**

/s/ DAVID V. HAYES
FREDERICK N. GLEATON
Georgia Bar No. 297250
DAVID V. HAYES
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*Attorneys for Bloodworth Wholesale
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CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of April, 2018, I electronically filed the foregoing DEFENDANT BLOODWORTH WHOLESALE DRUGS, INC.'S, **MEMORANDUM IN SUPPORT OF MOTION TO STAY THE DATE BY WHICH TO RESPOND TO PLAINTIFF'S COMPLAINT AND FOR AN EXTENSION OF TIME PENDING FINAL DETERMINATION OF REMOVAL** with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to the following attorneys of record:

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DATED: April 23, 2018

**OWEN, GLEATON, EGAN,
JONES & SWEENEY, LLP**

/s/ DAVID V. HAYES
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